

MONTANA LEGISLATIVE HISTORY

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Chapter 386 19 95

Bill H _____ S 174 Original bill & history C

H. Committee on Judiciary

Hearing Date(s) 3/7 ☒ C

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_____ C

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Date Out 3/22 C

S. Committee on Judiciary

Hearing Date(s) 1/23 ☒ C

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out 1-28

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

SENATE JUDICIARY

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- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

	1/13	2/11	2/14, 2/17, 3/27, 3/28	VOTE:	
SB0136	BAER, LARRY		GENERALLY REVISE ETHICS LAWS		
	3/24	3/27	3/28 PASS AS AMENDED	VOTE:	3/28
SB0141	SWYSGOOD, CHUCK		DISTRICT COURT CLERK ON JUDICIAL NOMINATION COMMISSION		
	1/14	1/19	1/19 ADVERSE RPT ADOPT	VOTE:	1/19
SB0143	BAER, LARRY		REJECT FEDERAL MANDATES NOT DERIVED FROM ENUMERATED FEDERAL AUTHORITY		
	1/13	1/16	1/19 PASS AS AMENDED	VOTE:	1/19
SB0148	EMERSON, C. A.		INITIATIVE FOR CONSTITUTIONAL AMENDMENTS NOT SUBJECT TO CHALLENGE AFTER ELEC		
	1/16	1/20	1/24 DO PASS	VOTE:	1/24
SB0149	EMERSON, C. A.		AMEND CONST. - REVISE "FULL LEGAL REDRESS"		
	1/16	1/20	1/24, 2/2, 2/8 TABLED ON 02/09	VOTE:	
SB0150	WATERMAN, MIGNON		ALLOW LIMITED DISCLOSURE OF NONIDENTIFYING ADOPTION INFORMATION; CON INTMEDY		
	1/16	1/20	1/20 DO PASS	VOTE:	1/20
SB0165	AKLESTAD, GARY		AMEND LAW RELATING TO AMENDED PETITION FOR POSTCONVICTION RELIEF		
	1/17	1/24	1/30, 2/2 1/24 PASS AS AMENDED	VOTE:	1/24
SB0167	BENEDICT, STEVE		METHODOLOGY FOR IMPLEMENTING FEDERAL MANDATES		
	1/17	1/27	2/8 PASS AS AMENDED	VOTE:	2/09
SB0174	JACOBSON, JUDY		EXTEND & REVISE LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM		
	1/17	1/23	1/27 DO PASS	VOTE:	1/28
SB0175	VAN VALKENBURG, FRED		IMMUNITY FOR STATEMENTS MADE IN SEXUAL OFFENDER TREATMENT PROGRAMS		
	1/17	1/24	1/24 DO PASS	VOTE:	1/24
SB0185	VAN VALKENBURG, FRED		GENERALLY REVISE HABITUAL TRAFFIC OFFENDER PROCESS		
	1/18	1/24	1/24 DO PASS	VOTE:	1/24
SB0189	WELDON, JEFF		REVISE IMPLIED CONSENT LAWS		
			2/13		

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

SENATOR AL BISHOP offered no further comments on closing. EXHIBIT 1, Judicial Unification and Finance Commission Summary of Proposals, was handed out.

HEARING ON SB 174

Opening Statement by Sponsor:

SENATOR JUDY JACOBSON, Senate District 18, presented SB 174. The Local Citizen Review Board Pilot Program, which was set up for foster care replacements, was established by the 53rd Legislature. In the Special Session the funding was reduced from \$150,000 to \$75,000, which left them very little to work with. The Supreme Court Administrator was very supportive of the program and was able to loan some of his staff to start the first pilot program. The pilot program is located in Missoula. They are hoping to expand the program. Citizen review boards are active in 22 other states. Foster care costs are reduced considerably once the program is put into place. This bill is to clean up the initial legislation and has very little to do with the funding. They would like the Supreme Court, rather than the local youth courts, to adopt the rules of procedure so that the rules will be uniform throughout the state. The references in the bill to "youth" court should be changed to "district" court. The youth court deals with delinquency. The district court deals with abuse and neglect cases, which are the larger load of the foster care program. The Department of Family Services needs a longer time to respond to the citizen review board. In some cases the DFS was to respond to the findings before they had a copy of the findings. Initially, the judicial immunity provision was in the bill. The provision was dropped out of the bill and they are asking that the judicial immunity provision be added to this bill.

Proponents' Testimony:

Karen Sedlock, Montana Supreme Court, presented her written testimony, EXHIBIT 2. Montana Supreme Court Report of the Local Citizen Review Board Pilot Program was handed out, EXHIBIT 3.

John W. Larson, District Judge of the Fourth Judicial District, announced their support of SB 174. They were selected for the first pilot program because they had one of the largest abuse/neglect foster care caseloads. It is very helpful to have the community involved. Volunteers have more time to spend on these cases and with their range of experience they can have their own investigation.

Opponents' Testimony:

Laurie Koutnik remarked she is a concerned individual who has served as a foster parent for the state of Montana and private agencies. She has cared for 55 children for the state ranging in ages of 4 to 18 years of age. She questions the need of a citizen review board when each judicial district of this state already has at least one or more local foster care review committees in place. This seems to be an unnecessary duplication of effort. The local oversight of the judicial court should not be shifted to the state oversight of the Supreme Court Administrator. She questioned the costs of this program. One pilot program in Missoula is the only pilot program drawing funds from the \$75,000 given during the Special Session. How much will it cost to equip every district with this program? Do we have a breakdown of the \$75,000 costs which have already been spent? She also questioned confidentiality. Each member of the board would be given case histories. Natural parents, their attorneys or others with an active interest in the case will be invited into the case. If the board is immune from liability, who is liable should a breach of confidence exist? Ms. Koutnik also expressed concern that those who know most about the children; the counselors, the foster parents, the caseworkers, may or may not be represented or requested to participate in the review process.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR STEVE DOHERTY questioned whether we are throwing good money after bad by continuing this program. Judge Larson stated they were not. These cases are being given more time. Instead of a checklist, they are able to go into detail on these cases.

SENATOR LORENTS GROSFIELD questioned whether the immunity being provided on page 6 would require a 2/3 majority vote to pass. SENATOR JACOBSON stated that may be the case and they should have the Council look at it.

SENATOR RIC HOLDEN inquired about REP. COBB'S reasons for supporting the bill. SENATOR JACOBSON stated that she and REP. COBB sat on the same committee with the Supreme Court to put this program together. They support the bill because foster care costs are getting out of control. They also felt that children are lingering in this system longer than necessary. Some districts have boards that don't meet. In some cases the reviews of these children are being done by one person. Their hope would be to remove all the review boards which are in place now and put these boards in in their place. The federal government is moving in this direction and they may be able to access some federal money. This makes the citizens of the community more involved in the placement and concerns of the children who live in their community.

SENATOR DOHERTY, following up on the 2/3 vote for immunity, questioned if the immunity clause was an important part of the bill and if they would consider any contingency language if the 2/3 vote failed. SENATOR JACOBSON stated the Department of Family Services and volunteers already have that immunity. They are asking for parity with that.

Closing by Sponsor:

SENATOR JACOBSON remarked that this program will make government smaller, get things back to a local level and get people involved in community programs.

{Tape: 1; Side: B; Approx. Counter: 11.3}

EXECUTIVE ACTION ON SB 127

Motion/Vote: SENATOR CRIPPEN moved SB 127 DO PASS. The motion CARRIED UNANIMOUSLY on oral vote.

EXECUTIVE ACTION ON SB 64

Motion: SENATOR NELSON moved to AMEND SB 64.

Discussion: Amendments prepared by Valencia Lane were handed out. EXHIBIT 4 Ms. Baker explained it was her understanding that the committee would prefer to have lesser penalties for the adult minors. The third amendment keeps in the six month jail sentence which is current law for offenders who are 18 and over. This will allow the court to suspend the driver's license for a second or subsequent offense for an 18 or older violator, if that person was driving or in control of the vehicle at the time the offense occurred.

Vote: The motion CARRIED UNANIMOUSLY on oral vote.

Motion: SENATOR CRIPPEN moved SB 64 DO PASS AS AMENDED.

Discussion: SENATOR GROSFIELD expressed concern regarding underaged designated drivers. If a designated driver was penalized, the word would get around that you may as well forget about being a designated driver.

SENATOR DOHERTY stated he had the same concerns. Ms. Baker stated this bill will not change the law regarding the designated driver status. The prosecutor must have evidence that would be sufficient to convince a jury beyond a reasonable doubt that the defendant was in possession of alcohol. There will have to be circumstantial evidence that the driver consumed or was in possession of alcohol for that person to be charged.

COMMITTEE NO. 2
DATE 1/23/95
BILL NO. SB174

TESTIMONY FOR SB174

BY: Karen Sedlock, Montana Supreme Court

Mr. Chairman, members of the committee, for the record my name is Karen Sedlock.

As you know, this bill is requesting an extension of two years for the pilot project. I believe there is a need for foster care citizen review in the State of Montana. There are approximately 1800 children in foster care in the state of Montana at this time. These placements should be temporary and every child needs and deserves a permanent home.

Right now the Department of Family Services is involved in the removal and placement of these children. These placements need to be reviewed, at a minimum, of every six-months. This review should be done by an independent group. Someone that is not associated with the Department of Family Services. This is what the Citizen Review Board's do. They are the eyes and ears of the community and the community has a right to know what is happening with their children.

A citizen review board is composed of three to five volunteer members. These volunteers come from a cross section of residents in the community and they are interested, and care about, Montana's children. Each member receives training prior to serving.

The citizen review boards review the case of each child in care under the Department of Family Services. The first review occurs no more than six months after the child is placed in substitute care. Findings and recommendation are then sent to the district court judge as well as the parties that were noticed for hearing.

The results and effects of the hearings are safe, permanent homes, particularly for children who have been abused or neglected. The Juvenile Court Judge finds the recommendations to be an efficient and objective source of information and guidance. The citizen review boards develop Community awareness of the needs of children in substitute care and become strong advocates for the children of Montana.

The citizen response in Missoula County has been very receptive. Of the 15 people selected their experience and background is formidable. They have well over 150 years of combined parenting experience.

Currently there are 21 other states that have citizen review boards in place and four more, plus Montana, that are in the pilot stages. In Oregon, the volunteers donate an average of three weeks per year, which is a conservative savings of over \$723,000 per year. In Nebraska, the volunteers donate approximately 14,000 hours per year, which is a cost savings of \$280,000 per year in professional

fees. Reviewed children were 3.6 times more likely to be adopted than non-reviewed children. This would be a net savings per year of \$236,000 in foster care payments. 18.6% of reviewed children left care through adoption or guardianship vs. 3.3% of those who did not have citizen review. Within three years of the start of citizen review in the state of Nebraska the number of children who spent 5 or more years in care decreased from 23% to only 9%.

Montana's first pilot project is located in Missoula county and approximately 40 cases have been reviewed. The review board recommendations are a great asset in moving the children to the end goal of a permanent home environment with the court making the final decision.

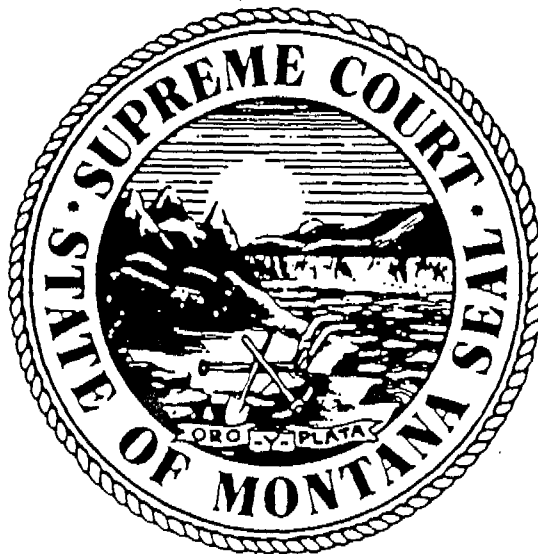
The review boards will bring children's issues and concerns out of the courthouse and into the community to expedite appropriate permanent placement which benefits the child. Most families, of all races and backgrounds, welcome the support and guidance of the citizen review board. Citizen review boards need to exist in Montana because its citizens care about their children.

Respectfully submitted by
Karen Sedlock - Phone Number 444-2608

Dated this 23rd day of January, 1995.

CLARK NO. 3
DATE 1/23/95
FILE NO. SB 174

MONTANA SUPREME COURT
REPORT OF THE
LOCAL CITIZEN REVIEW BOARD
PILOT PROGRAM

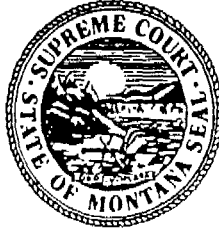


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number is 444-2694.

(comb-bound)

The Supreme Court of Montana
Office of the Court Administrator

PATRICK A. CHENOVICK
Court Administrator



JUSTICE BUILDING—ROOM 315
215 NORTH SANDERS
PO BOX 203002
HELENA, MONTANA 59620-3002
TELEPHONE (406) 444-2621

December 22, 1994

TO: Governor Marc Racicot, Members of the 54th Montana Legislature, and concerned citizens of Montana

In accordance with section 41-3-1004(2), MCA, I am submitting the report of the activities of the Local Citizen Review Board Pilot Program Act, enacted by the 53rd Legislature.

This program was brought to life due to concerns of Montana citizens that wanted to improve the current system. The program was assigned to the Judicial Branch so that an independent program could take an outside look and give back unbiased reviews.

The pilot program has began and reviews performed. I believe that the program will offer positive results in the foster care and placement areas and that all Montana's will benefit.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick A. Chenovick", written over a horizontal line.

Patrick A. Chenovick
Supreme Court Administrator

DATE 1-23-95

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: SB 127
SB 174

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Charles R. Brooks	Yellowstone County	SB-127	✓	
Pam Mayo	DFS	174	✓	
Chris Wether	Supreme Court Administration Office	174	✓	
John W. Larkin	District Judge 4 th J.D.	127 174	✓	
Karen Sedlock	Supreme Court Administration Office	174	✓	
PATRICK CHENOVICK	MONTANA SUPREME CT	174	✓	
Shirley Brown	DFS			
Laurie Kautzke		174		
Beth Baker	Dept of Justice	127	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

HOUSE JUDICIARY

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- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

	1/23	3/01		CONCUR AS AMENDED	3/15	VOTE: 18-1		3/16
SB0132	BISHOP, AL		GENERALLY REVISE ESTATE AND TRUST LAW					
	2/20	2/28		CONCUR	3/2	VOTE: 18-0		3/04
SB0133	CHRISTIAENS, CHRIS		REDUCE JURORS IN CIVIL ACTION FROM 12 TO 9 AND PEREMPTORIES FROM 4 TO 3					
	1/25	3/02		TABLED ON	03/13	VOTE: 15-3		
SB0143	BAER, LARRY		REJECT FEDERAL MANDATES NOT DERIVED FROM ENUMERATED FEDERAL AUTHORITY					
	1/23	2/06	TIE VOTE 3/2 9-9	CONCUR AS AMENDED	3/22	VOTE: 12-6		3/23
SB0165	AKLESTAD, GARY		AMEND LAW RELATING TO AMENDED PETITION FOR POSTCONVICTION RELIEF					
	1/27	3/01		CONCUR	3/1	VOTE: 17-0		3/01
SB0174	JACOBSON, JUDY		EXTEND & REVISE LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM					
	2/01	3/07	POSTPONE ACTION 3/15	CONCUR	3/22	VOTE: 17-2		3/22
SB0175	VAN VALKENBURG, FRED		IMMUNITY FOR STATEMENTS MADE IN SEXUAL OFFENDER TREATMENT PROGRAMS					
	1/27	3/09		TABLED ON	03/09	VOTE: 15-1		
SB0185	VAN VALKENBURG, FRED		GENERALLY REVISE HABITUAL TRAFFIC OFFENDER PROCESS					
	1/27	3/02		CONCUR AS AMENDED	3/13	VOTE: 18-0		3/13
SB0189	WELDON, JEFF		REVISE IMPLIED CONSENT LAWS					
	2/20	3/02		CONCUR AS AMENDED	3/13	VOTE: 16-1		3/13
SB0192	VAN VALKENBURG, FRED		PROSECUTOR SERVICES COORDINATOR'S SALARY SAME AS FULL-TIME ATTORNEY'S					
	2/16	3/03				VOTE:		
SB0206	BURNETT, JIM		REVISE LAWS ON INVESTIGATION AND REMOVAL OF CHILD IN SUSPECTED CHILD ABUSE					
	2/20	3/08		CONCUR AS AMENDED	3/21	VOTE: 11-8		3/22
SB0211	KEATING, TOM		RE: PROPERTY OWNER'S LIABILITY TOWARD PERSONS USING PROPERTY FOR RECREATION					
	2/20	3/03		CONCUR AS AMENDED	3/9	VOTE: 15-1		3/10
SB0212	BISHOP, AL		PROCEDURAL SAFEGUARDS FOR JOINT AND SEVERAL LIABILITY DETERMINATIONS					

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on March 7, 1995, at
8:00 AM.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: NONE

Members Absent: NONE

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 278, SB 66, SB 174, SB 353
Executive Action: NONE

{Tape: 1; Side: A}

HEARING ON SB 174

Opening Statement by Sponsor:

SEN. JUDY JACOBSON, SD 18, gave background on SB 174 which would provide for some revisions to the local citizen review board pilot program as well as provide for administrative procedures to be adopted by the supreme court and designation of the district court judge rather than the youth court judge to administer the local citizen review board pilot program. It would also allow for an increase in the time allowed for the Department of Family Services (DFS) to respond to recommendations of the board and would grant immunity to volunteer members of the board.

Proponents' Testimony:

Patrick Chenovick, Montana Supreme Court, said the foster care review pilot program started late in the biennium due to the special session of the legislature adjustment in the funding. Because the program was a pilot, they did not hire staff to draft the rules and to begin the training. The Chief Justice volunteered his senior law clerk along with a member of his staff to draft the rules. They received five replies from their solicitation for interested judges to participate. Missoula was selected. It is believed that the program will save money in that foster children will not get into the foster care cycle of continually being replaced in foster care homes. A report was submitted. EXHIBIT 1

John Larson, Fourth Judicial District Judge, spoke on behalf of all the judges in the fourth judicial district to support SB 174. The fourth judicial district was the first pilot program. He said they have three committees which work simultaneously on up to 10 - 12 review hearings each. These hearings occur every month. He said it is the only time these people can all be in the same room together talking about those children. He said that he thought it was much more detailed than the existing program. He had seen the old review sheets which would take about 30 seconds to complete while this system of hearings takes one-half hour to an hour per child to complete. He said that it will save money in the long run because the kids will be in more appropriate placements and will receive more appropriate care.

Opponents' Testimony:

Laurie Koutnik said she was not appearing in her official capacity as the Executive Director of the Christian Coalition but as a private citizen and former foster care parent. She submitted written testimony and supporting documents.

EXHIBITS 2 - 5

{Tape: 1; Side: A; Approx. Counter: 22.9}

Questions From Committee Members and Responses:

REP. BRAD MOLNAR stated that this would provide for administrative procedures to be adopted by the supreme court rather than with the youth court. He asked why they would want to put that kind of power with the supreme court as opposed to people who actually have to work with the system.

SEN. JACOBSON answered that the supreme court is the administrator of the program rather than DFS. That would give them arms length from the social workers and people working in the program. The reason was so that the rules would be uniform.

REP. MOLNAR said they also go from the youth court judge to the district judge. While district judges argue the court judges, he was still confused as to how they would have "experts in the field" (which are the youth court judges) not being mandated as being the person to handle it and give it to the district judge who had perhaps never been a youth court judge.

Judge Larson said the change was because of the various configurations they have in district courts in Montana. He described the rotation of duties and said because of that rotation it made more sense to have it shared by the district judges because at one time or another they would have had those responsibilities. It would provide a broader range of experience to deal with those issues.

REP. MOLNAR questioned granting judicial immunity to members of the local citizen review board. He knew one board had a \$1,000 fine if they broke confidentiality and he wanted to know what the need was for granting immunity.

Judge Larson said it was because they are agents of the district court. There is no ability to buy insurance for this type of thing and citizens won't volunteer their time and expose themselves to lawsuits. The court takes responsibility and trains them.

REP. MOLNAR asked how many districts currently use this system.

Judge Larson said there was only one pilot program in Missoula. Five districts applied but because of the funding and the need to start in one area, Missoula was selected. They have one of the highest case loads in the state and all of the judges in that district supported the program. Expansion is planned in the other counties which have heavy case loads.

REP. MOLNAR asked him to respond to the charge that this is a "feel-good" measure and in duplication of the DFS program.

Judge Larson said that he had never seen the material provided by Mrs. Koutnik nor did he believe it had ever been provided to any other judge in the state. One of the main problems, he said, was that DFS (not that they wanted to hide information or prevent others from having it) did keep that information away from the courts, the families and the treating professionals for those kids. He said the Missoula courts had produced results at no cost because their secretaries handle the administrative needs. DFS helps coordinate the schedules of their caseworkers, but he felt that there was little additional cost and they are getting the valuable information to the courts, the parents and to the treating professionals. Those items were just sitting in a box at DFS and no one was ever given that information. He said that he had cases which were over four years old where more kids had been born into the families since the case was initiated by DFS. He said the [DFS] system is not working and was proven by the increased numbers of cases being presented.

REP. DANIEL MC GEE said the first assumption in the fiscal note was that there is no funding provided after June 30, 1995. He asked if the sponsor was proposing additional funding.

SEN. JACOBSON answered that there was funding provided in HB 2 for this program.

REP. MC GEE understood the funding for the one pilot program was \$75,000. He asked if it was correct that the amount needed would be 20 times \$75,000 because of the 22 district courts.

SEN. JACOBSON said she did not think it would be that high with all 22 districts because it involved an administrator and administrative costs which would run across the system. Many of the costs were just getting the rules and paperwork done and other start-up costs. She also thought there were federal funds they could tap into since the system was becoming nationwide.

REP. MC GEE asked what the proposed budget was for this program in HB 2.

SEN. JACOBSON believed it was about \$120,000 each year of the biennium of about \$200,000. They hope to get about five programs up and running.

REP. JOAN HURDLE asked who attends the hearings and asked for a comment to the charge that knowledgeable people are disqualified from the meetings.

Judge Larson said the knowledgeable people are there for the first time. Under the old system, it was not unusual for one person to fill out the form with no meeting, notice or discussion. In their meetings, there are five volunteer members from the community, the supreme court staff, as well as parents, social worker and all treating professionals who deal with those children.

REP. HURDLE questioned Mrs. Koutnik about her testimony requesting evidence that it was going to be successful and asked what evidence she had that the program wasn't successful.

Mrs. Koutnik said she had been in contact with Oregon where the program had been in place for six years under the assumption that it would save money, time and move children more quickly into a more permanent situation. She said it had failed in all of those. She said she would provide the committee with documentation to show that it had failed in that state after which this program was modeled.

REP. HURDLE wanted to know what evidence she had that the present [DFS] program in Montana is successful.

Mrs. Koutnik said that she believed it was successful. She said that if it was failing in Missoula it is probably because of lack of supervision but that in other parts of the state it was functioning quite well. She cited the program's success in Great Falls.

REP. HURDLE asked if she had any evidence that the kids in the Great Falls area are getting more permanent placements more quickly.

Mrs. Koutnik said she could get that information for her. She said that the emphasis in DFS was due to just that.

REP. HURDLE stated that if one person is filling out the reports and some of the information is not seen by the judge, she wanted to know if there was evidence that is actually happening.

Mrs. Koutnik said in her understanding where it was being effectively followed as procedural manuals specify, the committees complete the report, not just DFS though it is a DFS form. All the information is made available. She said the process included ongoing involvement and she appreciated that. She gave a personal example of how the DFS program accomplished the goal.

REP. HURDLE asked Judge Larson to respond to the assertion that the present program is working.

Judge Larson said it is not working, they are not receiving the information and said he also has a case in Cascade County which is well over two and a half years old with no information in the file. The three children are in their second placement where a sex offender is present. He felt all the judicial districts could benefit from the new program.

REP. LIZ SMITH asked if there was a child protective team in the community [in Missoula]. And she wanted to know how often they meet.

Judge Larson said they did and that they were associated with the county attorney's office but was sure they met frequently because they were deluged with TIA requests from the department and the county to protect children.

REP. SMITH said that since the child protective team is a local citizens review board if that would not also identify the child protective team.

Judge Larson said the child protective team was at the beginning of the system when they see children who are at risk or who are in danger. They are put into the system. The citizen review board reviews what is happening to the children in the placement to make sure there is some permanency for the child.

REP. SMITH asked if there was a conflict in having that child protective team be the ongoing citizen review board.

Judge Larson said the volume is such in Missoula that they have one child protective team. To review all of the current foster care placements in Missoula County over a six-month period, they need three separate committees reviewing as many as ten placements each month, or thirty reviews every month. The one child protective team cannot handle the volume of kids already in placement and who are continually being referred to placement. The child protective team is made up of county and state employees. There are so many of them being referred that many are falling through the cracks.

REP. DEB KOTTEL asked if it was true that the supreme court's traditional role is to promulgate court rules when uniform rules are necessary.

Judge Larson answered that it was.

REP. KOTTEL asked for an explanation of the liability issue. She asked if the district court judge places the child or recommends placement.

Judge Larson said that when the process starts, they initially grant that authority for placement to the department. They oversee it. If there is a dispute, they resolve the dispute.

REP. KOTTEL asked if that was the reason for the mantle of immunity over the citizen's review board.

Judge Larson affirmed that was true because they were making recommendations to them. There was immunity also for the DFS people who were making similar recommendations and decisions.

REP. KOTTEL asked if the guardians ad litem who work in child abuse cases have a similar immunity provision.

Judge Larson replied that they do and they make them their agents by specific order.

REP. KOTTEL asked if all the counties do this if the bill is passed or if it was elective of those counties who wished to incorporate system review boards.

Judge Larson said it was optional. Only those which think they will benefit from having their citizens involved in the process will apply and it will only go as far as the money goes.

REP. AUBYN CURTISS asked what kind of recommendations are made by DFS to judges, how long they have been using their present record keeping system and whose responsibility it is to provide the judges with the information.

Judge Larson said that within the local regional office, DFS delegates it to their social workers who make the recommendations to the court as to where the initial placement should be done and what the parents should do to get the children back or whether the parents' rights should be terminated. Because of the case load, it is a problem since the proceeding starts and is not completed while the child remains separated from the parents with no communication about ways to resolve it. The judge only gets the front page which says that everything is fine.

REP. CURTISS asked Mrs. Koutnik how the system is working now. It looked to her like a grave problem across the state.

Mrs. Koutnik gave historical information about the system from her experience since 1975. She said there were concerns, but they should not "throw the baby out with the bath" and should address those concerns. She said that her experience as a foster parent was that the information about the child was always being updated. She submitted that sometimes the breakdown in communication happened because of dynamics of the parties involved. She assured the committee that DFS wants to find permanent placement that is best for the child.

REP. CURTISS said she was still puzzled about the relationship between DFS and the judges. She wanted to know who makes the report or recommendation to the judge.

Judge Larson said it was the responsibility of the social worker. They make an initial recommendation, but that doesn't mean that it continues on a regular basis. That is why a citizen review process stimulates that and keeps the cases going. DFS gets the process started, but it doesn't move toward resolution.

REP. DEBBIE SHEA referred to Mrs. Koutnik's testimony that "just because a program will work in Nebraska does not mean it would work in Montana" and asked what she meant by that.

Mrs. Koutnik said there are a number of states which are just beginning to initiate this approach. Nebraska is one of them and she did not know what the statistics are. She had talked to Oregon, because she knew that Montana's program was modeled after the Oregon approach.

REP. SHEA asked if what she was saying was that just because it was working in one state did not mean it would work in Montana. Mrs. Koutnik affirmed that was what she said.

REP. SHEA said her contention was why they should pay credence to what is going on in Oregon, but not to the success in Nebraska.

Mrs. Koutnik said that she thought they should pay credence to all the states. She encouraged a search of all of them which have citizen review boards in place and see if they are working. She referred to Oregon because that is Montana's model for the program. There are other states using various portions of this model.

REP. SHEA said that because it is not working in Oregon, did not mean it would not work here and Mrs. Koutnik agreed.

REP. SHEA asked for an exposition of the pilot program as opposed to the current system.

Judge Larson said that one difference was the amount of detail they go into in a meeting. There are five citizens asking questions from their own perspectives for the purpose of exchanging information. That exchange of information is not happening now, he asserted.

REP. ELLEN BERGMAN asked if he was familiar with the CASA program.

Judge Larson said that was the Court Appointed Special Advocates (CASA) program and they had a program in Missoula with which he had worked. All the other judges have court appointed volunteer guardians ad litem although they don't call them special advocates. They have 20 in Missoula. They are also a citizen component to the foster care process and can track what is happening to a particular child. It is a program with no cost to the state.

REP. BERGMAN asked how that programs differs from this one or did they work together.

Judge Larson said it was volunteer, it does not go through every foster care case while the foster review board goes through every foster review case. The CASA program only begins when a case begins. The citizen review board works through all the pending cases and they may pick out one that needs a special advocate. The court will appoint one as needed. In other judicial

districts, there may not be enough guardians ad litem or CASA's to go through all of their cases.

REP. BERGMAN asked if the citizen review board was volunteer. The answer was yes.

REP. BERGMAN asked how the money was to be spent if it is a volunteer program.

Judge Larson said it is not spent on the volunteers, but is spent on the process of the supervision of the supreme court staff travel and administrative expenses.

{Tape: 1; Side: B}

REP. MOLNAR asked if the actions of this committee override or eliminate the DFS procedures in the districts in which the committee is established.

Judge Larson thought the citizen review panel would help coordinate everyone's efforts and concerns and expertise. It would help the courts, DFS, the parents and the kids.

REP. MOLNAR asked if he was saying that the same procedures they don't like are still there even if this were implemented; i.e., they won't supply the information if they don't want to.

Judge Larson said they supply it, they are under court order.

REP. MOLNAR said the recommendations of the citizen review board become part of the case file and that DFS may modify them as considered appropriate. In other words, he said, the citizen review board makes findings and recommendations and DFS does as they see fit and they may implement them. He asked if the board is only making recommendations, other than a breach of confidentiality, why they would be sued and why they would need judicial protection.

Judge Larson said the same could be said of any judge or DFS. They are helping make a decision and if someone were dissatisfied with that decision, they would sue everybody along the line. They each get copies of the recommendations of the citizen review panel for their cases and they take them very seriously. There is a high correlation between the actions filed in court and the degree of sensitivity and emotional involvement. To get the community participation, they need to assure them that there is actual immunity.

REP. SMITH asked if there was a possible breakdown in foster placement utilization primarily due to the responsibility for decisions being placed with one person (the social worker).

SEN. JACOBSON said she did not know all the inner workings of DFS and they saw a need for something to change for the system to

look better. DFS clearly thought there could be a better way to do this and were in support of the bill. She did not remember any opponents to the original bill. She explained why the old review process was left in place while making a gradual change-over.

REP. LOREN SOFT recounted an assessment of the need for the changes in the system.

SEN. JACOBSON said the problem with the system now is that they are relying on DFS with many workers who are already too overworked to put this on the front burner while it clearly is on their back burner. They needed some local involvement where citizens who cared in those communities could volunteer time. This system makes it their top priority where the DFS top priority is to deal with the immediate situation by removing a child from a harmful situation and then go on to the next one.

REP. SOFT asked if this was what the foster care committee was originally intended to do.

SEN. JACOBSON said that was correct--to replace them. If they had been able to fund the program, that is what would have been done last time--repeal the old system and put the new system in place. She said that DFS is under-funded, so they could not take the funds out of DFS for this program. Therefore, they had to come up with new money.

REP. SOFT struggled with the duplicate nature of the effort and asked what suggestions the sponsor had to move along without duplicating the efforts and to achieve more efficiency and effectiveness in the system.

SEN. JACOBSON supposed that they could ask for more appropriations and a repeal of the old statute. But she thought the long-term goal was to get the pilot programs started and to have the supreme court present a full budget next time through the Governor's office.

REP. SOFT asked if there was data which would indicate the speed and success of placements.

Judge Larson said that they were seeing more motions for permanent legal custody, more motions to terminate parental rights or more dismissals where parents have "come up to speed."

REP. SOFT asked if he understood that the rest of the judges were sharing the same frustration that he had expressed.

Judge Larson said he knew that they do and that they had all decided together that this was a program they needed. They knew they were not getting the attention from an internal review versus an external review program.

REP. SOFT asked if this was what the foster care review committee was supposed to do when they were originally established.

Judge Larson said he did not know what they said then, but he knew what it looked like now. He said it was people in DFS, the youth court and people already in the agency reviewing their own work. He said they need change, so they would have to look to outside in the community where the kids would grow up to get that change.

REP. BOHARSKI and SEN. JACOBSON reviewed the reasons for creating the pilot program. He remembered that DFS was doing a lousy job getting permanent placements. She had brought people in from Oregon who had given testimony about how it would work and they were going to save money by getting placements completed more quickly than DFS was doing it. He asked if it was working.

SEN. JACOBSON answered that it was working and knew there were at least four other communities which are anxious to get the program started. She said that she had a review of the Oregon program that is quite positive and would provide it to the committee.

REP. BOHARSKI asked if it was working why there was no reduction in the DFS foster care budget which he said was their whole goal.

SEN. JACOBSON said the program had been refunded with the idea that there will be more foster care programs started. She believed there was a similar reduction that would be taking place. Because of the special session, the program's funds were cut from \$150,000 to \$75,000 and the program was not started until after the special session. So there would not be any cost savings from November to April.

REP. BOHARSKI said his understanding was that the Oregon program was working very well. He expected to hear that this program would save money in the foster care budget which is more than \$200,000.

SEN. JACOBSON said she could say it was working in New Jersey, Nebraska, Alaska, Iowa, Kansas and in a total of 22 states. She had the statistics and favorable review.

REP. BOHARSKI asked if Judge Larson was sure it was going to work better than the old system.

Judge Larson said they get back to their parents, they get better treatment and it will keep them out of the adult system.

REP. BOHARSKI asked the same question of Mrs. Koutnik.

Mrs. Koutnik said she also saw the dollar signs and desired for the system to work and felt the primary concern should be the placement of the children. She said she had information from Irma Vasquez and two gentlemen of the study in Oregon that this

program, after being in place six years, did not save money. Further, their information was that children are placed two to three months later and that the permanency was not effective on a long-term basis nor were adoptions happening as quickly as they thought they would. She said she would provide the committee with Ms. Vasquez's (the program administrator in Oregon) phone number.

REP. BOHARSKI said that she was the only person he had talked to who was telling him that the current program run by DFS is working.

Mrs. Koutnik clarified that what she was saying was that on the budget DFS has been given and the staff they have, the level of training they had and with the best of intentions, they are doing the best they can. She did not say there were not problems, but there are bills which would address the concerns. She also wanted the committee to realize that two years ago, when the bill was heard, it would be improper for DFS to say they didn't support it. They are willing to better their system.

REP. BOHARSKI asked what is wrong with extending the pilot program other than it might be a waste of money.

Mrs. Koutnik said that if that was their feeling, they should extend it but "do not implement it on a statewide basis at the cost of the taxpayers without knowing that truly this is going to work. We are simply doing a pilot program and we are trying, but I don't think four months is indicative that the program is really going to work when you are looking at foster care placements which are long term."

REP. BOHARSKI said he thought that was what was being asked for. He said he wanted to know what her opposition was to doing that.

Mrs. Koutnik replied that her opposition was that instead of expanding it, they should be sure that in one area where they are already spending \$75,000 that this is truly going to work before bringing on five other areas or all judicial youth district courts. She wanted to be sure they had the data that it is working. She wanted to ensure that it was not a duplication and more administration wasting tax dollars rather than meeting the needs of the child.

REP. BOHARSKI asked if it was true that she was not opposed to the program but was giving a word of caution.

Mrs. Koutnik answered, "Absolutely not." She came in as an opponent because after she appeared as a proponent on the Senate side, SEN. CRIPPEN said a proponent would not talk about the concerns [she voiced] and that she was really an opponent. She had said there that she was not an opponent to the proposal, but was concerned about where it was headed and wanting to exercise

caution before going further. She said maybe they should fix what is in place.

REP. BOHARSKI asked for clarification, "As far as the program, as far as the minor statutory changes, if we keep this as a limited pilot program to try it out to see if it works, is there anything that is being proposed to be changed in the bill in the pilot program that you have a problem with?"

Mrs. Koutnik said the only thing she could find were two things:

1. People that are directly knowledgeable are not always invited, and
2. While she understood the liability issue, she had a problem with that. She saw somewhere a clerical worker being made responsible for compiling the documentation or maintaining it and being brought up on charges because someone inadvertently released information that was confidential. They are immune from prosecution and then who would be prosecuted.

REP. BOHARSKI asked if they still use the other advisory team in addition to this team.

Judge Larson said the statute was still in place and so was still being followed by the department.

REP. BOHARSKI asked if that wasn't the intent, to take one area of the state and exempt them from the statute and put the pilot program in place instead.

SEN. JACOBSON answered that the original bill totally repealed the old system and put into place the new system. When they realized that they would not get the full funding, they were hesitant to do anything with DFS because they felt they were under-funded and overworked. They left it alone and started the pilot program with the intention of continuing to expand it and then replace the old system with the new.

REP. BOHARSKI asked if they could amend the current statutes to allow an area to opt out of the old system to eliminate duplication.

SEN. JACOBSON said she thought they could and would look into it.

REP. CHRIS AHNER asked if they had spent \$75,000.

Judge Larson said that was the amount appropriated, but did not know where they were with it, though he thought it ran until July.

REP. AHNER asked if data were available concerning the monies that had been spent so far.

Judge Larson said he would request the supreme court administrator to do that.

REP. AHNER asked for data concerning the placement success.

Judge Larson said they could provide an interim report on how many hearings had been held and what action had occurred since then.

REP. AHNER asked how many CASA programs were in the state.

Judge Larson said there were four programs licensed by their national office, but there was only one program affiliated with volunteers. He outlined where they were and their current status.

REP. AHNER asked if these special advocates just recommend placement of the child.

Judge Larson said they begin when the case begins to look into the history. They are at all the hearings to speak for the child as to any recommendations made concerning the child either by the parent, the social workers or the treaters. He has conferences with them and assigns them to juvenile cases, domestic violence cases where there is a plea of guilty and doesn't just use them in abuse and neglect cases. The citizen review board reviews every foster care placement.

REP. AHNER asked it would be helpful if he had access to more of the court appointed special advocates who would follow the child through to completion.

Judge Larson replied that it would be.

REP. AHNER asked if there was some way to tie it to this program.

Judge Larson said the statute which was passed two years ago allows the citizen review board to use the court appointed advocate to help so they are tied together.

REP. CURTISS pointed out that though they were talking about a single pilot program, the language of the bill was that the supreme court administrator shall solicit written indication of interest from each district court judge and wondered if Judge Larson knew how many district court judges would be interested in starting a similar program.

Judge Larson said that four or five districts had applied when they did and he thought they generally were the larger districts.

REP. CURTISS wondered about the potential fiscal impact on DFS.

SEN. JACOBSON said she imagined that it referred to the social worker being asked to come to the meeting.

Informational Testimony: EXHIBIT 6 was provided to the committee following the meeting for their information.

Closing by Sponsor:

SEN. JACOBSON reviewed the 1993 information which was presented and the statistics from other states using the program which indicated positive results. She said the bill made the proposed changes and the funding was in HB 2.

HEARING ON SB 353

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 34, said the bill would allow the judge to appoint a special master. It is a local discretionary matter in both civil and criminal proceedings. He discussed the various sections of the bill.

Proponents' Testimony:

Judge John Larson, Fourth Judicial District, rose in support of SB 353 as a bill which would simplify and provide flexibility in some cases where a district judge is not needed. He said it was based on the federal court model and has been tried in the federal judiciary for 200 years. He said that some divorce cases are referred to counselors regarding visitation and to accountants for calculating child support issues. He said that was an effective tool in diffusing the cases and getting them resolved earlier and keeping the kids out of the disputes.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

SEN. HALLIGAN closed. REP. DUANE GRIMES agreed to carry SB 353.

HEARING ON SB 66

Opening Statement by Sponsor:

SEN. J.D. LYNCH, SD 19, said SB 66 came about because of current situations where criminals were being seen in public and dangerous criminals were being released. He had seen that the state of Georgia had put the most violent crimes on an initiative for two strikes and they were out. In his opinion the whole

EXHIBIT 2
DATE 3/7/95
SB 174

Mr. Chairman, members of the Committee:

For the record, my name is Laurie Koutnik, and I appear before you today not in my official capacity as executive director of Christian Coalition of Montana, but as a private citizen, former foster parent for the State of Montana and Casey Family Program for 55 of our children, and a concerned individual on where the tax dollars are being spent. I'm a firm believer that moneys should be directed at real needs, the children served, not in unnecessary administration or establishing a new bureaucracy that allows us to feel good about what we are doing, but not resolving the true problems. As you know I am an advocate for loving homes and caring placement for youth, preferably with natural families, but when not possible, with adoptive placement or foster care or treatment alternatives when found in the best interest of child.. Knowing all this, I rise in opposition to SB 174 because of several concerns I hold.

SB 174 was originally introduced in the '93 session with \$150,000 price tag. That was cut in half in the special session to \$75,000 for a Citizens Review Board program that was determined to be established in Missoula County. Though this was given the go ahead from the special session, the Citizen's Review Board did not begin to function till December of 1994... just a few short three months ago. At that time, it was decided that one CRB would not be sufficient to meet the caseload demands, so three CRBs were established with five persons per board (fifteen total). A thirty percent increase in just three months of operation.

I have requested from the Supreme Court Administrator who oversees the program, a breakdown of moneys spent to this point, but have not received that information. You too, should request that important data. If we are going to establish this new model around the state, we should know what costs we are incurring for just one county program that is only a few months old.

There too presents another concern. Do we really know enough about this approach as to its effectiveness besides its cost consideration to warrant establishing it in our state?

In checking with Irma Vasquez who oversees the Oregon CRB program that our state was modeled after and which has been in effect for six years, she conveyed that a survey conducted within the department at the department's request showed that children were not placed any sooner, but rather 2 to 3 months later, nor were adoption proceedings accomplished any quicker. There was no indication that placements were more secure. In fact, as an administrator she was somewhat frustrated that what was to be accomplished has not proven out. In fact, backlog is a growing concern as well. That is a concern I hold. I do not want our children to be used as guinea pigs on a new, improved, better idea with some concrete evidence that this is going to be successful. We know the devastating effects each move through placement has on a child and their ability to bond or trust those who care for them. I'd encourage this committee to have legislative council do a search of states where Citizens Review Boards are in place to see for yourselves if this is time saving, cost saving, truly child friendly placement proposal before we go sinking taxpayers money into it or adding to administrative bureaucracy. Just because a program is in place in Nebraska does not mean it will necessarily work in Montana. Let's not give up local district court control to state supreme court administration.

Currently, our state has in place by law, Foster Review Committees that are established in each judicial district. Some have one, others more, comprised of highly qualified, committed individuals that volunteer their time in doing exactly what the CRBs are to do. Only there are no costs incurred by this totally volunteer board. Here is sample of the report each committee submits to Dept. Of Family Services and to the Courts as well as a policy manual. Are these duplications of Boards necessary? Do we negate FRCs or abolish both of these entities? If we abolish the existing FRCs, do its experienced members become members on the new CRBs? Rather why don't we address concerns we have and work it out within the existing boards rather than create an entire new entity?

The only people that would be disqualified from serving on these boards are some of the most knowledgeable individuals... namely the counselors, the case workers, and the foster parents. They are only allowed to participate upon the request of the CRB. Those who know the situations best are disqualified. In my estimation, we are overlooking key people with first hand knowledge of these children not always recorded to the same degree on paper. They know circumstances, reactions, and almost have an instinctiveness as to the reactions of a child as well as cause and effect.

Now there is the issue of confidentiality. Though much has been stated to try and address this concern, as a former foster parent, I would be remiss not to stress the importance of confidentiality. Under the trial program in place in Missoula, we have fifteen individuals that are given case histories, other pertinent privileged information, and inviting attorneys, and other interested individuals into the process. Need I spell out the possibility for mischief or the breach of confidentiality. Who is going to protect the privacy of these documents? Who will administer there security? Who would be liable? Page 6, Section 6, lines 13 and 14, absolve any of these members from liability. Would it be the State Administrator for the Supreme Court or DFS? Should a clerical person have to worry that they are responsible for liability?

Just from January 1, 1995 to January 20, 1995 fourteen reams of paper alone were used to begin documenting forty cases that were reviewed. And that wasn't the end results. How much more paperwork will this Board require to keep all parties informed? Is DFS being compensated for use of clerical staff that are already overloaded with caseload demands? Or will DFS have to hire additional staff? \$12,000 for one part time worker in that 20 day period alone has been spent.

Now we have the concerns of costs, data to support effectiveness, duplication of services, disqualification of knowledgeable parties involved, question of confidentiality, and additional staffing. There may be others, put time doesn't permit.

Putting in place a new Board with a new name will not resolve the old concerns. Nor will investing additional dollars on an unproven pilot program that may end up costing us money beyond your intentions. Before you give the green light, get some answers as to the necessity of this measure. Thank you for your time and consideration

Respectfully Submitted March 7, 1995
Laurie Koutnik

**Child and Family Services Policy Manual: Substitute Care for Children
Case Plan/Report of Foster Care Review Committee (DFS 427, Parts A and B)**

Case Plan Required	If the child's placement in out-of-home care continues longer than 30 days, the DFS 427 Part A is required.
Definition	<u>Placing worker</u> refers to a social worker, juvenile parole officer, probation officer or child-placing agency representative responsible for placing a child into foster care.
Description	The DFS 427 face sheet is attached to the DFS 427 Part A and, as a component of the case plan, is provided to the FCRC for review every six months. The face sheet records the foster child or youth's family information, custody actions, placements, and school history, and must be updated whenever a change occurs. The face sheet will be given to the youth when he or she moves to independent living.
Placing Worker Responsibility	The DFS 427 Part A and face sheet must be completed by the placing worker within 30 days of the initial placement into foster care and every six months thereafter, as long as the child remains in foster care, regardless of the type of facility. The DFS 427 Part B, when completed with the DFS 427 Part A, constitutes a report of the foster care review committee (FCRC) and contains the minimum items that must be reviewed by the committee.
Instructions DFS 427 Part A	To complete the DFS 427 Part A enter: • child's legal name, social security number and birth date; • name of foster care facility; • type of facility, e.g., foster home, group home, child care agency; • the reason the facility is an appropriate placement for the child, e.g. close to home; • the date the child first entered placement for this continuous foster care period; and • date of current placement.

**Child and Family Services Policy Manual: Substitute Care for Children
Case Plan/Report of Foster Care Review Committee (DFS 427, Parts A and B)**

Specific questions:

- 1.a. State the reasons the placing worker has become involved with the child/family.
- 1.b. State what services the placing worker has provided, if any, to avoid the child's removal. If none were provided, indicate why prevention was not appropriate.
- 2.a. Self-explanatory.
- 2.b. Self-explanatory.
3. State what has to be provided to the child and parents by what date and by whom, to return the child home. If the child can't return home, state what needs to be done to establish an alternate, permanent home for the child.
4. State what needs to be provided to the child and foster parents, by what date and by whom, to attain the goals or to return the child home.

NOTE

All health-related services provided to the child should be documented under No. 3 or No. 4 depending on the placement. Health-related services may include:

- arranging for services such as medical, dental, hospital or mental health services;
- providing transportation or arranging for transportation to a health service;
- providing social work counseling to help the client and family accept and follow through with needed health services; and
- helping clients apply for Medicaid or programs for medically needy offered by SRS.

**Child and Family Services Policy Manual: Substitute Care for Children
Case Plan/Report of Foster Care Review Committee (DFS 427, Parts A and B)**

5. State the frequency and who is responsible to make contacts with the child and service provider assuring proper care is provided to the child.
6. State how the planned services are meeting the child's needs by correcting the problem that created the need for placement.
7. Self-explanatory.
8. Self-explanatory.
- 8.a. In an effort to avoid educational disruption, placement should include considering a location where the child can continue to attend the school in which he or she is enrolled.
- 9.a. The response to this question requires establishing target dates for emancipating to independent living and the anticipated living arrangement.
- 9.b. List the task(s) to reach the goals established for the youth to live independently and the date the service will begin.
10. Explain that the child is placed in foster care to meet the judicial determination.
11. List other custody actions.
12. Self explanatory.
13. Self-explanatory.
14. Self explanatory.
15. The most recent report card or other school records should be attached to the case plan and a copy is given to the foster care provider.

**Child and Family Services Policy Manual: Substitute Care for Children
Case Plan/Report of Foster Care Review Committee (DFS 427, Parts A and B)**

16. Medical records submitted to the FCRC are also provided to the foster care provider. Medical records must contain a record of:

- immunizations;
- medications;
- any disability or health problems, and
- the name and address of the child's health care provider.

Filing

The completed forms are signed by the placing worker, dated and filed in the case record under the section entitled "case plan." A copy of the case plan is provided to the youth (if appropriate) and/or parent.

**Child Placing
Agency**

The child placing agency shall provide to the department either a written case plan or the DFS 427 Part A including a face sheet, at the times stated above. If a written case plan is used, it shall include all the items contained in the DFS 427 Part A, including a face sheet.

**Foster Care
Review Committee**

The court-appointed FCRC evaluates the plan of action every six months for each youth in foster care. The review ensures permanency planning.

DFS-427 Part B

The DFS 427 Part B is the report of the committee's findings and any recommendations the committee feels necessary to provide more effective services to the youth. The yellow copy of the DFS 427 Part B is sent to the judge who ordered the foster care placement. The original is retained in the child's file along with the DFS 427 Part A and a face sheet. The pink copy is sent to the foster parent or birth parent, as appropriate. (An additional copy of the reports may be made if both the foster and birth parents are to receive the reports.)

Continuance

A majority of the committee members must be present. (See Section 307-1, Child and Family Services Policy Manual for FCRC membership.) If fewer than a quorum are present, the hearing must be postponed. All members present date and sign the initial review and set a continuance date. A copy of the continuance (DFS 427 Part B) must be placed in each child's case record.

Child and Family Services Policy Manual: Substitute Care for Children
Case Plan/Report of Foster Care Review Committee (DFS 427, Parts A and B)

When the review is completed, the DFS 427 Part B form is dated and signed by all members present and the next review date is set.

If the review is the usual six-month review, then "Periodic Review" is marked. If the review is to be considered a "Dispositional" hearing review, 18 months after initial placement and annually thereafter, then "Dispositional Hearing Review" must be marked.

Should the child/youth or the parents/foster parents disagree with the review findings or recommendations, they may mark their decision and add their comments. (The back of the form may be used.)

References

42 USC 627
42 USC 671(15) and (16)
42 USC 672
42 USC 675
45 CFR 1356.21
Section 41-3-11 through 15, MCA.
Sections 11.7.501 through 11.7.504, ARM.

**Child and Family Services Policy Manual: Substitute Care for Children
Foster Care Review Committee**

Philosophy	All children in substitute care shall be afforded the opportunity for permanency. To ensure the child's right to the stability and continuity of family life, the department encouraged the legislature to establish Foster Care Review Committees (FCRC).
Purpose of FCRC Committee	The foster care review process is intended to reduce the number of children in foster care, and when possible, to expediently return children to their birth homes, or free them for alternate, permanent placements.
Who is reviewed by FCRC	The FCRC reviews any child who has been placed in substitute care for a period of six months or longer; and • has been placed under the supervision of the department; • has been placed by the department; or • whose placement is paid for by the department.
Frequency of Review	All children must have an initial review no later than the 6-month anniversary of the date of their initial placement. Subsequent follow-up reviews must take place within six months of the initial review and within every six months thereafter for as long as the child remains in care. FCRC review ensures the procedural safe guard of open participation by the parents or the child who is the subject of the review. If the child is in a pre-adoptive placement or the parents' rights have been terminated, the notification of the review to the birth parents should be waived. Reviews may take place more frequently than described above.
NOTE	A court hearing may substitute for a FCRC review. Some offices prefer to have both a FCRC review and a court hearing, even though IV-E regulations do not require both.

**Child and Family Services Policy Manual: Substitute Care for Children
Foster Care Review Committee**

Dispositional Hearing

A dispositional hearing must take place within 18 months of the initial placement of a child. This hearing is a federal requirement that the court make a determination of the child's future status after placement and after the case plan has been in effect.

The dispositional hearing determines the child's future status, including whether the child should be:

- returned to the parents;
- continued in foster care for a specified period;
- placed for adoption; or
- continued in foster care on a long-term or permanent basis, because of the child's special needs or circumstances.

Subsequent dispositional reviews must be held every 12 months thereafter and may be conducted by an administrative body approved by the court. If a FCRC meeting is approved as a dispositional review, the committee must be notified that the meeting is a dispositional review, the items above must be discussed and determined, and the appropriate box checked on the DFS 427 per section 307-2.

Location of Review

If a child is placed under a court order, the child is reviewed in the judicial district which issued the order. The FCRC in the judicial district where the court order was issued is responsible for the reviews, although the FCRC where the child is located (county of service) may negotiate actually doing the reviews.

If a child is placed by voluntary agreement, the child is reviewed by the FCRC in the judicial district where the child is living.

The county of financial responsibility must be notified of the necessity for reviews at the same time the county retaining placement responsibility/authority is notified.

Child and Family Services Policy Manual: Substitute Care for Children Foster Care Review Committee

Timelines

The supervisor assures that the appropriate people are provided written notice of the FCRC, 10 days prior to the scheduled review.

The social worker prepares a DFS 427 Part A on each child to be reviewed and submits that form to the CSWS prior to the scheduled review.

The supervisor provides the DFS 427-A reports to the FCRC members. All information is marked confidential, and the FCRC shall adhere to DFS confidentiality policy as set forth in section 104 of this manual.

Who Attends FCRC Meetings

Unless DFS or another agency has permanent custody, the child's parents must be notified in writing that they may attend the meeting. The child's foster parents must also be notified in writing.

The committee consists of four to seven members. A majority must be present to conduct an official review. The committee must include at least the following representatives:

- the department (usually a DFS supervisor and/or social worker; however, the worker responsible for the child's placement should not be a committee member when the committee reviews that child's placement);
- the youth court;
- the local school district;
- a person who is knowledgeable of foster children's needs, and not employed by the youth court or the department;
- if the child under review is an Indian, a person, preferably an Indian, who is knowledgeable about Indian cultural and family matters; and
- the foster parents for a child placed in their care.

*Change
MCA 21-3-1116
to reflect
previous members*

**Child and Family Services Policy Manual: Substitute Care for Children
Foster Care Review Committee**

The following individuals may also attend FCRC meetings:

- the placing social worker and/or his or her supervisor;
- the birth parents;
- the child, if of appropriate age and maturity; and
- the child's guardian ad litem, for the review of that child's case only.

ARM 11.7.501 ALSO INCLUDES "OTHER PEOPLE AS APPROPRIATE" SHOULD THIS BE REFLECTED HERE?

**What Information
to Bring to FCRC**

The placing social worker or the supervisor brings the documentation necessary to substantiate the DFS 427-A prepared by the social worker prior to the FCRC meeting. Such documentation includes:

- current social information;
- the treatment plan;
- placement history;
- health history (mandatory);
- educational history (mandatory);
- court orders;
- available psychiatric and psychological information regarding the child/family; and
- any other material requested by the FCRC.

**FCRC Action
After Review**

The FCRC prepares a written report (DFS 427 Part B) which is submitted to the appropriate court, the social worker and the department representative.

The DFS 427, Parts A and B, are maintained in the child's case record.

**Child and Family Services Policy Manual: Substitute Care for Children
Foster Care Review Committee**

Response to FCRC Report	The social worker shall attempt to implement the recommendations made in the FCRC report. If the FCRC's written recommendations to the court are adverse to the department's case plan, and the court schedules a hearing, the appropriate regional administrator shall be notified to determine what additional action may be needed.
Private Placing Agencies Tribal Courts	When children have been placed in foster care by a private placing agency, the social worker from that agency is responsible for preparing the case for the FCRC. When a child is placed in foster care under a tribal court order, the following procedures apply: 1. If the child is placed under the supervision of the department, the department's social worker is responsible for preparing the case for the FCRC. 2. If the child is placed under the supervision of tribal social services, the tribal social worker is responsible for preparing the case for the FCRC. In all cases where the child reviewed has been placed under a tribal court order, the social worker's report and the FCRC report shall be sent to the tribal court issuing the order.
Youth Court Placement	When a child is placed in foster care under the provisions of the Youth Court Act (i.e., youth in need of supervision or delinquent youth), the following procedures apply: 1. If the Youth Court is reviewing the child's placement every six months through a formal court review, a FCRC review is not necessary. 2. If the Youth Court is not reviewing the case every six months, the probation officer supervising the child is responsible for preparing the case for the FCRC.

**Child and Family Services Policy Manual: Substitute Care for Children
Foster Care Review Committee**

Interstate Placements

Children who are placed by the department in foster care in another state must be reviewed by the FCRC in the judicial district which contains the county responsible for payment. The FCRC in the judicial district is responsible to ensure the reviews are done, but the FCRC where the child is receiving service may negotiate actually doing the reviews.

If the FCRC where the child resides does the 6-month review, the report should be immediately sent to the FCRC of the responsible judicial district, with a copy to the district judge. The social worker should obtain the information necessary to conduct the review from the receiving state's social worker. Children who are placed into foster care in Montana by another state will be reviewed by the sending state. Social workers shall provide the information necessary to conduct the review to the sending state's worker, as requested.

References

Section 41-3-1115, MCA.
Sections 11.7.501, 11.7.502 and 11.7.504, ARM.

Montana Department of Family Services
REPORT OF FOSTER CARE REVIEW COMMITTEE

EXHIBIT 5
DATE 3/7/95
SB 174

(Instructions: Part B is completed within each 6 months. When completed by the FCRC, it serves as the report of the Foster Care Review Committee of the child's case plan.)

Child's Name: _____ Social Security #: _____

1. Placement Goal:
 - a. Short Range: _____ Achievement date: _____
 - b. Long Range: _____ Achievement date: _____
2. Is there a written case plan for the foster care child? Yes ☐ No ☐ Does the plan need to be modified? Yes ☐ No ☐
3. Was the plan completed within 30 days of placement? Yes ☐ No ☐ Is it updated each six months? Yes ☐ No ☐
4. Are services provided to show reasonable efforts are provided to return the child home? Yes ☐ No ☐
5. Is continuation of placement necessary? Yes ☐ No ☐
6. Does the placement continue to be appropriate in the least restrictive setting and close as possible to the parents home? Yes ☐ No ☐
7. Is the case plan being carried out? Yes ☐ No ☐
8. Is there progress being made toward alleviating the cause necessitating foster care placement? Yes ☐ No ☐
9. Can the child return home? Yes ☐ Expected date _____ No ☐ Why not? _____
10. Is the review open to parental participation and were they notified? Yes ☐ No ☐
11. How does the case record document written notice given to parents, foster parents and the child for foster care review committee meeting? _____
12. Has the social worker made appropriate arrangements for parent/child visits? Yes ☐ No ☐ If not why? _____
13. Have the parents made scheduled child visits? Yes ☐ No ☐ If not why? _____
14. What is the future status of the child? _____ Until what date? _____
 - a. returned to parent
 - b. continue foster care
 - c. placed for adoption
 - d. permanent long term foster care
15. Committee Recommendations: _____

☐ Periodic Review

☐ Dispositional Hearing Review

Parents notified of any change in:

1. Change in placement - Yes ☐ No ☐ N/A ☐
2. Actions affecting parents visitations Yes ☐ No ☐ N/A ☐

☐ Agree
☐ Disagrees

Youth Signature

Social Worker

Supervisor

☐ Agree
☐ Disagrees

Parent or Foster Parent

Other Present

Other Present

Other Present

Other Present

Other Present

Date Review initiated: _____ Date Review continued until: _____

Date Review completed: _____ Next F.C. Committee Review due date: _____

Montana Department of Family Services
427 FOSTER CARE CASE PLAN

Child's Name: _____ D.O.B. _____

S.S.#: _____ Tribal Affiliation: _____

Eligible For Enrollment Yes _____ No _____ Enrolled Yes _____ No _____ Enrollment # _____

FAMILY MEMBERS, RELATIVES, SIGNIFICANT OTHERS:

Name (List Parents Surnames)	Relationship To Youth	Address/City/State	Phone

CUSTODY ACTIONS

Type (Temp, Perm, TIA)	Effective Dates (From — To)	County of Action

PLACEMENTS

Name of Family/Facility	Date Placed	Date Removed	Reason For Move	S.W. Name

School at Placement _____ Teacher _____ Grade at Placement _____
City _____

SCHOOL HISTORY

Name and Address	Date Entered	Date Left	Teacher	Grade

Montana Department of Family Services
427 FOSTER CARE CASE PLAN

(Instructions: Part A is completed within 30 days of placement and within 6 months thereafter in all cases and when appropriate signed by the client or legal guardian or both. Part A reflects the current situation and should be updated as often as needed.)

CASE PLAN:

Cause or Case Number: _____

Child's Name: _____ Soc. Sec. Number _____ Birthdate: _____

Where is child placed? _____ Type of Facility: ☐ Foster Home ☐ Group Home ☐ Child Care Agency

Why is this placement appropriate? _____

Date of original placement: _____ Date of current placement: _____

Problem Description 1. a. Briefly describe the primary problems which led to your intervention with this child: _____

b. What efforts and services were provided to prevent removal from home: _____

Permanency Goal 2. What are the short and long range goals for the child's placement?

a. Short Range: _____ Achievement Date: _____

b. Long Range: _____ Achievement Date: _____

3. Describe the services to be provided to the child and/or to his/her parents to improve the home condition in order for the child to be returned home, or to be permanently placed. _____

Achievement Date: _____

4. Describe the services to be provided to the child and to his/her foster parents to address the child's needs while in foster care. _____

Achievement Date: _____

5. What is the plan to assure that the child receives proper care? _____

6. Evaluate the appropriateness of the services that have been provided to the child. _____

7. Is this placement the least restrictive (most appropriate family-like setting) available, consistent with the best interest and special needs of the child? Yes _____ No _____ Explain: _____

8. Is this placement in close proximity to the parent's home, consistent with the best interest and special needs of the child? Yes _____ No _____

a. Does the placement consider proximity to the school in which the child is enrolled at the time of foster care placement? Yes _____ No _____ Explain: _____

Montana Department of Family Services
427 FOSTER CARE CASE PLAN

Child's Name: _____

Youth
Age 16
or Older

9. a. By what date will the youth be living independently and what is the goal for independent living. _____

- b. List activities and services needed for independent living and their date for implementation. _____

10. Describe the activities and services provided to carry out the judicial determination made with respect for the child? _____

11. Removal from home was the result of: ☐ Parental agreement: ☐ Court order

Current status of child is: ☐ Parental Agreement ☐ TIA ☐ Temporary Legal Custody

☐ Permanent Legal Custody or Other: _____

12. a. Does the court order contain statement "continuation therein would be contrary to the welfare of the child"? Yes _____ No _____

- b. Does the court order state that reasonable efforts were made to prevent or eliminate the need for removal of the child from his/her home or to make it possible for the child to return home. Yes _____ No _____

13. Does the case record document that the parents were notified prior to foster care review? Yes _____ No _____

14. a. Does the case record contain a copy of the CS/EA-1? Yes _____ No _____

- b. If IV-E eligible, has eligibility redetermination been completed within 6 months of last determination? Yes _____ No _____

15. Is the child's most recent school report card attached and a copy given to the foster care provider? Yes _____ No _____ Explain _____

16. Is the child's current medical record attached and a copy given to the foster care provider? Yes _____ No _____ Explain _____

Youth Signature (if appropriate)

Parent/Guardian

Date

Social Worker

Supervisor

Date

(Note: Supervisors may require additional information for treatment plans or foster care reviews.
Additional information should be attached to the case plan, when needed.)

EXHIBIT 6
DATE 3/11/95
SB 174

The Supreme Court of Montana
Office of the Court Administrator

PATRICK A. CHENOVICK
Court Administrator



Justice Building Room 315
215 North Sanders
P.O. Box 203002
Helena, Montana 59620-3002
Telephone (406) 444-2621
FAX (406) 444-3274

MEMORANDUM

TO: Lori Koutnik
FROM: Patrick Chenovick *PC*
DATE: March 8, 1995
SUBJECT: Local Citizen Foster CARE Review Boards Pilot Program

Per your request I am providing the following information detailing the expenditure of funds on the Local Citizens Foster Care Review Boards Pilot Program.

Fiscal 1994 (July 1993 - June 1994)

Personal Services	\$ 11,816.48
(includes benefits and insurance costs)	
Supplies	53.52
Travel	1,984.97
Equipment	3,474.00
Total all expenses	\$ 17,528.97

Fiscal 1995 (July 1, 1994 - June 30, 1995)

Personal Services	\$ 30,768.06
(includes benefits and insurance costs)	
Contracted Services	1,894.33
Supplies	507.99
Communications	187.42
Travel	1,551.73
Other Expenses	200.00
Total all expenses	\$ 34,438.50

Fiscal 1995 expenses are for expenses paid through February 1995.

If you have further questions, please don't hesitate to advise.

1/2 budget spent by June '95 with no review till Dec. 94

CRB money going to administrative costs rather than direct Services to kids at a time when service budget has been cut! Major objection and concern!

Laure Koutnik